

Adjust Status, filed by or for Plaintiff. The disclosure of these records is necessary to establish Mr. Pierre's U.S. citizenship.

JURISDICTION AND VENUE

4. This court has jurisdiction over this matter pursuant to the FOIA, 5 U.S.C. § 552(a)(4)(B), and 28 U.S.C. §§ 1331 and 1361.

5. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1391(e) and 1402(a)(1), as Plaintiff's permanent residence lies in the District of Connecticut.

PARTIES

6. Plaintiff Clerde Pierre is a United States citizen, wrongly held as an immigration detainee (A# 043 682 665), whose case is pending before the U.S. Court of Appeals for the Second Circuit. His permanent residence is in Stratford, Connecticut.

7. Defendant United States Department of Homeland Security ("DHS") is the federal agency responsible for enforcing immigration laws. United States Citizenship and Immigration Services ("CIS") is the division of DHS responsible for overseeing immigration to the United States of America. DHS is an agency within the meaning of 5 U.S.C. § 552(f).

STATEMENT OF FACTS

8. Mr. Pierre is a U.S. citizen who is improperly detained by DHS at Franklin County Jail in Greenfield, Massachusetts. Mr. Pierre has been in DHS custody since 2008 and has been improperly subject to removal proceedings. Mr. Pierre's case is pending before the U.S. Court of Appeals for the Second Circuit.

9. By letter to CIS dated May 29, 2009, Mr. Pierre submitted a FOIA request for records relating to (1) an application or applications for certificate of citizenship filed by Mr. Pierre or on Mr. Pierre's behalf by his father, Lavaud Pierre; and (2) a Form I-130, Petition for Alien

Relative, filed by Plaintiff's father, Lavaud Pierre, naming Plaintiff as a beneficiary, and/or Form I-485, Application to Adjust Status, filed by or for Plaintiff. A copy of that letter is attached to this complaint as Exhibit A.

10. On June 8, 2009, CIS issued a letter acknowledging its receipt of the FOIA request on June 4, 2009, placing the request on CIS's complex track for processing, and assigning the request an identification number, NRC2009031458. A copy of the acknowledgment letter is attached as Exhibit B.

11. On June 8, 2009, CIS issued a second letter denying Mr. Pierre's request for expedited processing.

12. The records requested by Mr. Pierre are necessary to establishing his U.S. citizenship under former 8 U.S.C. § 1432(a)(3). The records relating to the application for certificate of citizenship are necessary to establish that an affirmative application for certificate of citizenship was made on Mr. Pierre's behalf under 8 U.S.C. § 1433. The records relating to Forms I-130 and I-485 are crucial to establishing that Mr. Pierre was legitimated by his father. Without the requested records, Mr. Pierre will continue to be wrongfully detained, and will be at risk of being removed to Haiti despite his U.S. citizenship.

13. To date, Mr. Pierre has received no other correspondence from CIS regarding his FOIA request.

14. To date, CIS has not provided the records requested by Mr. Pierre in his FOIA request, nor has it denied Mr. Pierre's request in whole or in part, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days. *See* 5 U.S.C. § 552(a)(6)(A)(i).

15. Due to CIS's failure to provide a response to the FOIA request as required by the statute, Mr. Pierre has automatically exhausted the applicable administrative remedies with respect to the FOIA requests to CIS. *See* 5 U.S.C. § 552(a)(6)(C)(i).

16. CIS has wrongfully withheld the requested records from Mr. Pierre.

**FIRST CLAIM FOR RELIEF:
Defendant DHS Failed to Disclose and Release Records
Responsive to Plaintiff's Request**

17. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 – 16 as if repeated and reincorporated herein.

18. CIS, a component of DHS, has violated Plaintiff's rights to DHS records under 5 U.S.C. § 552.

**SECOND CLAIM FOR RELIEF:
Defendant DHS Failed to Affirmatively Disclose Records
Responsive to Plaintiff's Request**

19. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 – 18 as if repeated and reincorporated herein.

20. Defendant's failure to make its records available to the public violates 5 U.S.C. § 552(a)(1)-(2).

Requested Relief

WHEREFORE, Plaintiff respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Order Defendant to disclose the requested records in their entireties and to make copies available to Plaintiff;
- 3) Provide for expeditious proceedings in this action;

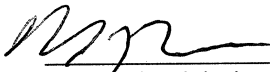
4) Award Plaintiff costs and reasonable attorneys' fees in this action as provided by 5

U.S.C. § 552(a)(4)(E); and

5) Grant any other relief the Court deems appropriate.

Dated July 28, 2009
New Haven, Connecticut

Respectfully submitted,



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Application for admission to District Court forthcoming

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On the complaint:

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